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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/527,834

10/25/2005

Valakunja Nagaraja

U 015667-3

1885

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EXAMINER

BLANCHARD, DAVID J

ART UNIT

PAPER NUMBER

1643

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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31 DAYS

04/19/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

DETAILED ACTION
Election/Restriction

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

To have a general inventive concept under PCT rule 13.1, the inventions need to be linked by a special technical feature. The special technical feature recited in claim 7 is a monoclonal antibody that inhibits the activity of DNA gyrase from *M. smegmatis* and *M. tuberculosis*. In view of this Manjunatha et al (Eur. J. Biochem. 268(7):2038-2046, April 2001, IDS reference AR filed 9/27/2006) reads on the claim. Manjunatha et al teach monoclonal antibodies MsGyrA:C3 and MsGyrA:H11 and their Fab fragments inhibit DNA gyrase *M. smegmatis* and *M. tuberculosis*. Therefore the technical feature recited in claim 7 is not special. Accordingly the groups are not so linked as to form a single general concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1-5 and 7, drawn to an antibody that inhibits the activity of DNA gyrase from *M. smegmatis* and *M. tuberculosis*.

Group II, claim 6, drawn to process of making an antibody that inhibits the activity of DNA gyrase from *M. smegmatis* and *M. tuberculosis*.

Group III, claim 8, drawn to a plasmid encoding an antibody that inhibits the activity of DNA gyrase from *M. smegmatis* and *M. tuberculosis*.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: As set forth above,

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in view of the teaching of Manjunatha et al the groups are not so linked as to form a single general concept under PCT Rule 13.1 because the technical feature of claim 7 is not special.

Inventions of Groups I and III represent separate and distinct products, which are made by materially different methods, and are used in materially different methods, which have different modes of operation, different functions and different effects. The antibody of Group I and the polynucleic acid of Group III are structurally and chemically different from each other. The polynucleotide is made by nucleic acid synthesis while the antibody is raised by immunization. Furthermore, the polynucleotide can be used for hybridization screening and the antibody can be used to immunopurify the antigen, for example. The examination of all groups would require different searches in the U.S. Patent shoes and the scientific literature and would require the consideration of different patentability issues. Thus the inventions I and III are patentably distinct.

Inventions I are II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process of Group II can be used to make a materially different product such as a recombinant enzyme, in addition to the materially different antibody of Group I.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and different searches in the patent literature, restriction for examination purposes as indicated is proper.

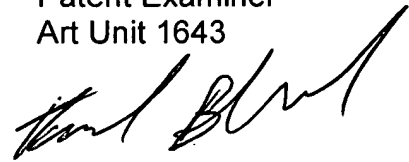
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Blanchard whose telephone number is (571) 272-0827. The examiner can normally be reached at Monday through Friday from 8:00 AM to 6:00 PM, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached at (571) 272-0832.

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The official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David J. Blanchard
Patent Examiner
Art Unit 1643

A handwritten signature in black ink, appearing to read 'David J. Blanchard', written in a cursive style.

DB
April 16, 2007